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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,120	07/18/2003	Luke K. Liang	Vision 105P	4462
7590	11/01/2005		EXAMINER	
Thomas A. O'Rourke Bodner & O'Rourke, LLP 425 Broadhollow Road Melville, NY 11747				STRIMBU, GREGORY J
		ART UNIT		PAPER NUMBER
		3634		

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/623,120	LIANG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gregory J. Strimbu	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 05 July 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-4,9 and 14-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4,9 and 14-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 July 2005 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

***Drawings***

The drawing correction filed July 5, 2005 has been approved. The drawings, however, are still objected to because the applicant has failed to use the proper cross sectional shading in accordance with MPEP 608.02. For example see figures 2 and 9. The drawings are objected to because the lettering such as "B direction" in figure 1 should be deleted. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because "[a]n improved" on line 1 can be easily implied and therefore should be deleted. On line 4, recitations such as "an extended position" are confusing since it is unclear if the applicant is referring to the extended position set forth above or is attempting to set forth another position in addition to the one set forth above. On line 5, "at the top" is grammatically awkward and confusing because it is unclear what element includes the top to which the applicant refers. On lines 10-11, "for causing the tumbler . . . extended position" is confusing since the spring rather than the release member causes the tumbler to move to the extended position. On line 12, "a retracted" is grammatically awkward and confusing.

Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: the description of the drawings is not accurate. For example see the description of figure 2, on line 6 of page 6, which indicates that figure 2 is a side view, however, figure 2 shows a cross sectional view. The description of figure 6 is not accurate since figure 6 shows a perspective view. The description of figure 9 is not accurate since figure 9 shows a

cross sectional view of the invention. The section lines such as "E-E" in figure 7 should be described or removed from the drawings.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 1-4, 9 and 14-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a sash stile sliding member" on line 2 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the sliding member set forth above or is attempting to set forth another sliding member in addition to the one set forth above. Recitations such as "the sash stile" on line 8 of claim 1 render the claims indefinite because they lack antecedent basis. Recitations such as "a spring" on line 11 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to the spring set forth above or is attempting to set forth another spring in addition to the one set forth above. Recitations such as "a release member . . . for causing said tumbler to be in a extended position" on lines 12-13 of claim 1 render the claims indefinite because it is unclear how the release member causes the tumbler to extend since it is the spring that causes the tumbler to extend. The release member merely releases the tumbler so that the spring can extend it. Recitations such as "extended position" on line 13 of claim 1 and "a retracted position" on lines 13-14 of claim 1 render the claims indefinite because it is unclear if the applicant is referring to

one of the positions set forth above or is attempting to set forth positions in addition to those set forth above.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9, 14, 20-24 and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown. Brown discloses a vent stop comprising a housing 2 including a cavity 6 formed by a face plate 3, a front wall (not numbered, but shown at the right hand side of the housing as shown in figure 2), a rear wall (not numbered, but shown at the left hand side of the housing as shown in figure 2), a first 5 and second (not numbered, but shown in figure 2 as the wall having the hole 24) sidewall joining the front and rear wall and extending from the face plate, a tumbler 7 disposed in the cavity, the tumbler including a protruding apex (not numbered, but shown on the left in figure 2) at the top thereof, the tumbler further including a recessed portion (not numbered, but shown where the lug 9 meets the remainder of the tumbler) for receiving a spring, a pivot means 8 for pivotally securing the tumbler to the housing for movement between an extended position where a front face of the tumbler overlies an edge of a sliding member to prevent movement of the sliding member past the front face of the tumbler, and a retracted position within the cavity where the sliding member can be moved past

the tumbler, a spring 11 for biasing the tumbler into the extended position, a release member 13 that has a first position for causing the tumbler to be in an extended position and a second position for causing the tumbler to be retained in a retracted position, and a button 17 disposed on the face plate 3 of the housing which when pressed causes the release member to move from the second position to the first position thereby causing the tumbler to be in an extended position, at least one retaining member 21. The button 17 can be pressed in a direction perpendicular to the plane of the front face 3 and slid from right to left as shown in figure 2 to cause the release member 13 to move from the second position to the first position. Since the applicant is claiming the subcombination of the vent stop limitations to the combination, i.e., the type of sliding member in which the vent stop is mounted, do not further limit the subcombination of the vent stop.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown as applied to claims 1-4, 9, 14, 20-24 and 26-28 above, and further in view of Lindstrom et al.

Lindstrom et al. discloses a pivoting tumbler 31 including a pair of retaining members 41 extending from the sides of the tumbler which dictate the maximum

extended position for the tumbler, the retaining member mesh with a pair of tracks 40 in side walls of the housing 27.

It would have been obvious to one of ordinary skill in the art to provide Brown with a control mechanism, as taught by Lindstrom et al., to stabilize the pivotal movement of the tumbler. See page 2, lines 24-27.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown as applied to claims 1-4, 9, 14, 20-24 and 26-28 above, and further in view of Charlton.

Charlton discloses a spring 50 comprising a ring 52 which receives a protrusion 54 in a recess (not numbered, but shown in figure 2) of a tumbler 34.

It would have been obvious to one of ordinary skill in the art to provide Brown with a spring connection, as taught by Charlton, to increase the amount of force provided by the spring.

#### ***Response to Arguments***

Applicant's arguments filed July 5, 2005 have been fully considered but they are not persuasive.

The applicant's comments concerning Kelly et al. are moot in view of the new grounds of rejection.

With respect to the applicant's comments concerning Brown, the examiner respectfully disagrees. Since the applicant has used the open ended language "comprising", the fact that Brown discloses more springs than the applicant does not

prevent Brown from anticipating the applicant's claimed invention. Since the button 17 of Brown can be both pushed in a direction perpendicular to the plane of the front face 3 and slid from right to left as shown in figure 2 to cause the release member 13 to move from the second position to the first position, Brown anticipates the applicant's claimed invention. The applicant's comments concerning the tumbler 7 receiving the end of the spring 11 are not persuasive since they are not supported by the claim language. No where in the claims does the applicant recite that the spring is received in the recess.

The applicant's comments concerning claim 15 are moot in view of the new grounds of rejection.

The applicant's comments concerning claim 33 have not been addressed since claim 33 is not currently pending.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The applicant amended the claims to at least include the tumbler further including a recessed portion for receiving an end of a spring which necessitated the new grounds of rejection. See line 6 of claim 1.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Stribu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory J. Stribu  
Primary Examiner  
Art Unit 3634  
October 28, 2005